

### **REMARKS**

This Application has been carefully reviewed in light of the Office Action mailed September 8, 2004. At the time of the Office Action, Claims 1-23 were pending in this Application. Claims 1-15 and 18-23 were rejected. Claims 16 and 17 were objected to. Claims 1, 3, 4, 16, 18 and 23 have been amended to further define various features of Applicants' invention. Claim 2 has been cancelled without prejudice or disclaimer. Applicants respectfully request reconsideration and favorable action in this case.

#### **Double Patenting Rejection**

The Examiner rejected Claim 2 based on the judicially created double patenting. Claim 2 has been canceled.

#### **Specification Objections**

The Examiner objected to the Abstract stating it contains "legal phraseology". Applicants have amended the disclosure and believe that the abstract, as amended, is sufficient to overcome this objection.

#### **Rejections under 35 U.S.C. §103**

Claims 1-11, 13-15 and 18-23 were rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent 6,507, 765 issued to Hopkins et al. ("Hopkins et al.") in view of U.S. Patent 5,880,960 issued to Lin et al. ("Lin et al."). Applicants respectfully traverse and submit the Hopkins and Lin do not disclose, teach or suggest that the cited references do not disclose, teach or suggest all of the claimed elements, as amended. In order to establish a prima facie case of obviousness, the references cited by the Examiner must disclose all claimed limitations. In re Royka, 490 F.2d 981, 180 U.S.P.Q. 580 (C.C.P.A. 1974).

Examiner has conceded that Hopkins fails to teach the reallocation of resources (based upon, at least in part, Work In Progress (WIP) information). See Page 5. Examiner has cited to Lin for its teachings related to the balancing of a factory floor.

However, Applicants note that the present invention (in each of Independent Claims 1, 3, 4, 18 and 23) is specific to build-to-order environments and, as amended, recites the

reallocation of resources based upon WIP profile information and order management information.

The Lin Patent discloses the use of an algorithm for improving WIP Balance in the production of semiconductor chips. See Col. 1, lines 5-12. Similar to the printed circuit board production described by Hopkins, Lin is focused on gross production efficiency, that is not driven by (and thus does not account for) customer orders. Accordingly, neither Lin nor Hopkins provides any teaching of reallocating resources based upon WIP profile and order management information as recited in Independent Claims 1, 3, 4, 18 and 23 of the present invention.

Accordingly, Applicant requests reconsideration, withdrawal of the §103 rejection to and full allowance of Claims 1, 3, 4, 18 and 23 and Claims 5-11, 13-15 and 18-22 which depend therefrom.

Claim 12 was rejected under 35 U.S.C. §103(a) as being unpatentable over Hopkins et al. in view of Lin et al. as applied to Claim 4 above, and further in view of U.S. Patent 6,523,045 issued to Beatty ("Beatty"). Applicants respectfully traverse and submit that Claim 12 depends from a Claim that has been placed in condition for allowance. Applicants request reconsideration and allowance of Claim 12.

#### **Allowable Subject Matter**

Applicants appreciate Examiner's consideration and indication that Claims 16 and 17 would be allowable if rewritten in independent form to include all of the limitations of the base claim and any intervening claims. Applicants have placed Claim 16 in independent form.

#### **Information Disclosure Statement**

Applicants enclose an Information Disclosure Statement and PTO Form 1449, with a copy of the reference, along with a check in the amount of \$180.00, for the Examiner's review and consideration.

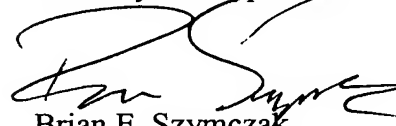
**CONCLUSION**

Applicants have now made an earnest effort to place this case in condition for allowance in light of the amendments and remarks set forth above. Applicants respectfully request reconsideration of remaining Claims 1-23 as amended.

Applicants believe there are no additional fees due, however, the Commissioner is hereby authorized to charge any fees to Deposit Account No. 02-0383 of Baker Botts L.L.P. in order to effectuate this filing

If there are any matters concerning this Application that may be cleared up in a telephone conversation, please contact Applicants' attorney at 512.322.2548.

Respectfully submitted,  
BAKER BOTTS L.L.P.  
Attorney for Applicants



Brian E. Szymczak  
Reg. No. 47,120

SEND CORRESPONDENCE TO:  
BAKER BOTTS L.L.P.

CUSTOMER ACCOUNT NO. **23640**  
512.322.2548  
512.322.8340 (fax)

Date: 11/23/04

Attachment:

Information Disclosure Statement and PTO Form 1449, along with a check in the amount of \$180.00